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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,312	09/24/2003	Kenneth Rambo	020366-091900US	8021
84190 7590 06/11/2009 Qwest Communications International Inc. 1801 California St., #900 Denver, CO 80202				
EXAMINER				
LU'ONG, ALAN H				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/671,312

**Applicant(s)**

RAMBO, KENNETH

**Examiner**

ALAN LUONG

**Art Unit**

2427

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3,4,9,10,12-14,17,18,21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,9,10,12-14,17,18,21 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 03, 2009, has been entered.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims **1, 3, 4, 13-14 and 17-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruck et al (US Patent No. 7,143,428), in view of Cooper et al. (US Patent No. 6,754,904); further in view of Hashimoto (US Pub. 20020178441).

**Regarding to claim 1:** Bruck teaches a communications network having multiple users using an instant messaging (IM) application (**see Bruck, col. 10 lines 27-30**), Fig. 13 depicts a display of GUI; wherein the users are viewing multiple television programs, the network comprising:

**a display device for each of the users** (*Bruck teaches a communications*

*network having a user (10) each having a display device (14)( see Bruck, Fig. 1 and 4; col. 3 lines 34-43 and col. 6 lines 21-35); [and]*

**plural display windows** (*i.e. as “chat region” 108 and TV region 118 of Fig.6; see Bruck, col. 7 lines 26-58*) at the display device (84 of Fig.3, col.6 lines 4-16), the **plural windows for simultaneously displaying multiple content**, wherein a first display window displays a broadcast television program and wherein a second display window displays content from the instant messaging (IM) application(see Bruck, Fig. 6 to Fig.8, col. 7 lines 26-58).

*Bruck teaches a television program identifier 126, (i.e., a show name) as a program ID identifying the broadcast television program being viewed by each user, (col. 7 lines 51-58)*

Further, Bruck teaches a host server ([98] of Fig. 4), is an **IM server in communication with the display device for managing IM content in the form of IM messages among the users**, the IM server operated by an IM service provider for **receiving, displaying and sending IM messages among the plural users** (col. 6 lines 28-41, Fig. 14, col. 9 lines 32-66, col. 10 lines 4-11 and lines 27-45).

However, Bruck is unclear regarding to “a server storing instant messaging content from each of the users, the instant messaging content including instant messages sent from the users and a program ID associated with each of the sent instant messages, and for aggregating instant messaging content including program IDs from the users corresponding to the multiple television programs being viewed by the users, so that video programming activity by multiple users viewing television programs can be

*tracked on a real time basis at the server in order to reflect moment-by-moment the level of instant messaging activity corresponding to multiple television programs being viewed by the multiple users".*

In an analogous art directed toward a similar problem namely improving the results from the instant messaging content including instant messages sent from the users and a program ID associated with each of the sent instant messages. Fig. 12 of Cooper illustrates an server 1204 as a **IM server storing instant messaging content from each of the users** (i.e. message is sent from one of the buddy list 1110 of Fig. 11), the instant messaging content including **instant messages** sent from the users (i.e. from Set-top box's user can transmit a message to the server )(Cooper, Fig. 10, col. 6 lines 47-59 and Fig. 12A, col. 7 lines 14-24); and Fig. 11 depicts display on Set-top box includes a **program ID [1102] associated with each of the sent instant messages** from [1108] in a TV-enhanced buddy list [1110]; the program ID identifying the broadcast television program being viewed by each user (Cooper, Fig. 11, col. 7 lines 4-13) and Fig. 12A, 12B illustrates server data [1204] and log-on list [1206] of a buddy list [1208] **for aggregating instant messaging content including program IDs from the users corresponding to the multiple television programs being viewed by the users (Fig. 12A-12B, col. 7 lines 14-28 )** and finally, Fig. 13 shows a process for providing buddy lists that display the show that user is viewing ;so that **video programming activity by multiple users viewing television programs** (i.e. only users log-on the network as box [1206]) **can be tracked on a real time basis at the server [1204] in order to reflect moment-by-moment the level of instant**

**messaging activity corresponding to multiple television programs being viewed by the multiple users" (Fig. 9, col. 6 lines 31-39, Fig. 13, steps 1300-1304, col. 7 lines 29-38 ).** Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to modify an IM display system of Bruck with a network activity users as taught by Cooper in order to allow user can watch TV, or view Web page, or surf the Internet on his Set-top box with his buddy lists in chat room. **(col. 2 lines 4-34)**

However, neither Bruck nor Cooper teaches *"a separate survey server in communication with the IM server for generating reports on the tracked programming activity; wherein personal profile information for the users is entered at a profile screen on the display device and is stored at the IM server, and wherein such personal profile information is provided from the IM server to the survey server, so that programming activity being tracked at the survey server can be associated with demographic information of the users collected from the personal profile information"*.

In an analogous art directed toward a similar problem namely improving the results from a survey server. *Fig. 1 of Hashimoto illustrates a separate survey server [10] in communication with the IM server* (an server 1204 of Fig. 12 of Cooper) *through communication net work [30] for generating reports on the tracked programming activity* at the audience rating compiling unit [16] (Hashimoto, ¶¶0030-¶¶0037) *Fig. 3 of Hashimoto also illustrates a entry boxes [101 and 102] wherein personal profile information for the users (i.e. age, gender, occupation, hobby, Income*

*address etc.) is entered at a profile screen [100] on the display device [68 of Fig. 2] and is stored at the IM server (Hashimoto, ¶0048, ¶0058)*

*, and wherein such personal profile information is provided from the IM server to the survey server (i.e. The demographic information registering/compiling unit 15 registers and compiles the characteristic parameters (demographic information) which are entered in advance by each user, associated with the user ID and device ID that stores in Data bases 12, 13 and 14 respectively (Hashimoto, ¶0035, ¶0037).*

**so that programming activity being tracked at the survey server can be associated with demographic information of the users collected from the personal profile information (i.e. Referring to Fig. 5, the controller 61 of the client terminals 50 accesses the survey server 10 via the communications network 30 and receives the data used for the selection screen display, which is used for gathering characteristic parameters previously mentioned with respect to FIG. 3, that has been transmitted from the survey server 10. As a result, the selection screen 100 shown in FIG. 3 is displayed on the monitor 68 of these client terminals 50 during the processing of step S32; during processing, the controller 61 transmits the characteristic parameters entered on the selection screen 100 by the users operating the input unit 66, the user IDs acquired by the user ID acquiring unit 63, and the device IDs that are held by the device ID holding unit 64 to the survey server 10 via communications network 30 wherein the programming activity being tracked. (Hashimoto, ¶0058, ¶0059).**

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify a display system of Bruck and IM server of Cooper to

include a survey server as taught by Hashimoto to perform audience rating survey can compile the number of viewers/listeners for each program, and include the extent of such things as what kind of people are viewing/listening to a certain program. Therefore, it is especially judge the advertising effectiveness of programs that run advertisements.  
(¶0006-¶0007)

**Regarding to claim 3:** The network of claim 1, Bruck also discloses the video programming content (**link 20 of Fig. 1**) is a broadcast television program (**Abstract lines 1-2**) and the broadcast television program is provided over one of a plurality of selectable television channels, and wherein the display device is a television screen. (**Bruck, col. 3 lines 46-49**).

**Regarding to claim 4:** Bruck further discloses the network of claim 1, wherein the instant messaging content comprises:

a personal ID associated with a user of the IM application (**Bruck, col.10 lines 19-26**).

**Regarding to claim 13, 14:** Bruck discloses the network of claim 1, wherein the programming content is provided to the display device by a satellite (**Bruck, col. 3 lines 60-63**) and a cable television service. (**Bruck, col. 4 lines 33-39**)

**Regarding to claim 17:** Bruck further teaches a set top box for each of the users (set-top box 12 of Fig. 1) for receiving the broadcast television program (**Bruck, Fig. 1, col. 3 lines 43-56**) Bruck also teaches the program ID identifying the television program (**Bruck, col.7 lines 51-52**), a program ID 126 of Fig. 6, **col.7 lines 59-65**), wherein the IM application captures the program ID at the set top box (**Bruck, Fig. 14, col.10 lines**



**4-26)** so that the program ID identifying the broadcast television program being viewed by each user changes when the television program being viewed by that user changes **(Bruck, Figs. 12, 13, col. 8 line 44-col. 9 line 32).**

**Regarding to claim 18:** Bruck also teaches the display device further includes a set up screen used by each of the users to set up an instant messaging session **(Bruck, Fig. 11, col. 8 lines 36-43)**, and wherein the program ID is entered by the user at the set up screen **(Bruck, Figs. 12, 13, col. 8 line 44-col. 9 line 32).**

3. Claims **9-10, 21 and 22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruck, Cooper et al. and Hashimoto; in view of US Pat No. 4,953,159 by Hayden et al. (hereinafter Hayden).

**Regarding to claims 9, 10:** Bruck, Cooper and Hashimoto teach the network of claim 1, Referring to Fig. 1 of Bruck; **a telephone device** (i.e. standard MODEM) **for each of the users separate from the display device [14], a set top box [12] for each of the users** (i.e. client system 10) **and** connecting each user at the telephone device (i.e. as *remote user*) **to the telephone communications line [24], over the communications network between the user at the display system (i.e. client at system 10) and the remote user (i.e. another user at telephone device), (Bruck, col. 3 lines 57-60)**

However, Bruck, Cooper and Hashimoto are silent to *wherein the IM content comprises a selectable telephone communications display element, when the telephone communications display element is selected and the telephone communications line uses the public switched telephone network (PSTN)*

In an analogous art directed toward a similar problem namely improving the results from a selectable telephone communications display element. Fig. 16, 17 of Hayden illustrates **wherein the IM content comprises a selectable telephone communications display element** (i.e. 62-11 and 62-12), **so that upon selection of the display element a telephone communications line is established over the communications network between plural users of the IM application** (i.e. Hayden and Mitchell are users at station 62-21 and 62-22 respectively. First, user at PC 1 inputs information as name and telephone number of users at PC3 in conferee selection window 32). (Hayden, Col. 17, line 37 to Col. 18, line 2).

Additionally, Fig. 1 of Hayden also shows the telephone communications line uses the public switched telephone network (PSTN) (Hayden, Col.2, lines 34- 39)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify a communications network having multiple users using an instant messaging (IM) application of Bruck, Cooper and Hashimoto to include a telephone communication display element as taught by Hayden; in order to allows the originator to establish a second conference connection to obtain a so-called hard copy of the sought-after information for storage in the originator's terminal and distribution to the other conferees.

**Regarding to claim 21.** Bruck, Cooper, Hashimoto and Hayden teach all limitation of the network of claim 9, Fig. 1 of Hashimoto illustrates a controller [11] **wherein the programming activity tracked at the survey server [10] includes activity relating to the selection of the telephone communications display element so that telephone**

**activity between users** (as disclosed in **Hayden**, Col. 17, line 37 to Col. 18, line 2) is **included in the tracked programming activity at the audience rating survey** compiling unit 16. (i.e. controller [11] of survey server [10] sends the received user ID, program ID and device ID from client terminal [50] to the audience rating survey compiling unit 16 where compares each ID and such that are housed in the respective databases 12, 13 and 14 to the received user IDs, device IDs and program IDs; retrieves the characteristic parameters recorded in the demographic information-registering/compiling unit 15; and carries out real time compilation of the audience rating based on demographic information such as what age, which gender, what sort of hobbies, what occupation, how much annual income, and which address of user is viewing/listening to the Internet-broadcasted programs as the results of the audience rating compilation.) (Hashimoto, ¶0067-¶0072)

**Regarding to claim 22.** Bruck, Cooper, Tota and Hayden teach all limitation of the network of claim 9, Hashimoto also teaches **wherein keywords in IM messages are tracked at the survey server** (i.e. the user ID, program ID and device ID from client terminals [5] is received at controller [11] of survey server [10] where accounts for participation in the audience rating survey (i.e. add new clients or withdrawal from survey), updates the characteristic parameters registered in the demographic information compiling unit) (Hashimoto, ¶0058-¶0059, ¶0068-¶0069), so that the **occurrence of the keywords** (i.e. the received user ID, program ID and device ID) is **included in the tracked programming activity** (i.e. controller [11] of survey server [10] sends the received user ID, program ID and device ID from client terminal [50] to the

*audience rating survey compiling unit 16 where compares each ID and such that are housed in the respective databases 12, 13 and 14 to the received user IDs, device IDs and program IDs; retrieves the characteristic parameters recorded in the demographic information-registering/compiling unit 15; and carries out real time compilation of the audience rating based on demographic information such as what age, which gender, what sort of hobbies, what occupation, how much annual income, and which address of user is viewing/listening to the Internet-broadcasted programs as the results of the audience rating compilation.) (Hashimoto, ¶¶0070-¶¶0072)*

4. Claims 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bruck Cooper et al. and Hashimoto; in view of US Pat No. 6,757,365 to Bogard

**Regarding to claim 12.** Bruck, Cooper and Hashimoto teach the network of claim 1, wherein a user at the display device is a subscriber to an ISDN service, but fail to disclose a VDSL service provides telephone, video programming and internet access service to the subscriber over the communications network (Bogard, col.5 lines 55-67).

Bogard teaches a DSL service, a cable modem etc... provide a telephone, video programming and internet access service to the subscriber over the communications network (col.5 lines 55-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify multiple users IM system of Bruck, Cooper and Hashimoto with the DSL service on a telephone communication network as taught by Bogard; in order to modernize the communication link between STB and the Internet Provider.

***Response to Arguments***

Art Unit: 2427

5. Applicant's arguments with respect to claims 1, 3-4, 9-10, 12-14, 17-18 and 21-22 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALAN LUONG whose telephone number is (571)270-5091. The examiner can normally be reached on Mon.-Thurs., 8:00am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. L./

Examiner, Art Unit 2427

/Scott Beliveau/

Supervisory Patent Examiner, Art Unit 2427